

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Child Development Incorporated, et al.,

NO. C 04-01909 JW

Plaintiff(s),

**AMENDED SCHEDULING
ORDER**

v.

Foundation Insurance Company, et al.,

Defendant(s).

This case was scheduled for a case management conference on Monday, October 3, 2005.

Pursuant to the Federal Rules of Civil Procedure and Local Rules of this Court, the parties conferred and duly submitted a Joint Case Management Statement and Proposed Order. Based on their joint submission, it appears that an amended schedule for the case can be set without the necessity of an appearance at this time. Accordingly, the case management conference is cancelled and the parties are ordered to comply with the following amended schedule.

The parties informed the Court that the scheduling of depositions is taking longer than contemplated because many key individuals are from different states. For this reason, the parties request that the current discovery cut-off date of October 21, 2005 be continued to **January 15, 2006**. While the Court grants the parties' request with respect to the discovery cut-off date, the Court must also amend other pretrial dates to accommodate the Court's schedule.

A. Disclosure of Expert Witnesses

Under any other circumstances, a change of the discovery cut-off date would also cause a change of the date of expert witness disclosures. However, since the parties have stipulated to defer expert disclosures until 30 days after mediation is completed, and the Court has approved, the Court will not amend this date. Likewise, the Court will not amend the date for disclosure of rebuttal expert witnesses.

B. Close of Discovery

As per the parties stipulation, and pursuant to Civil L.R. 26-2, all discovery, including supplemental disclosure, depositions of expert witnesses, must be completed by **January 15, 2006**.¹

C. Last date for Hearing Dispositive Motions

The last day for hearing dispositive motions is **February 27, 2006** at 9:00 a.m. Any motions must be noticed in accordance with the Local Rules of this Court.

D. Preliminary Pretrial and Trial Setting Conference Statement and Proposed Order

The attorneys who will try the case are ordered to confer with one another and to file and lodge with Chambers on **March 31, 2006**, a Preliminary Pretrial and Trial Setting Conference Statement and Proposed Order, stating their readiness for trial, the amount of time which the Court should allocate for trial and the calendar period for the trial. Ordinarily, depending on the length of the trial the Court will set the trial during a calendar period approximately three to four months after the Preliminary Pretrial and Trial Setting Conference. In the Statement discussed in this paragraph, the parties should show any cause why the case should be advanced or delayed beyond this period.

The attorneys who will try the case are ordered to appear on **April 10, 2006** at 11:00 a.m. for a Preliminary Pretrial and Trial Setting Conference.

With respect to the time allocation for trial, at the Preliminary Pretrial and Trial Setting Conference trial counsel will be asked to stipulate to a time allocation to each side for the trial of the case. Once a stipulated allocation has been entered, the parties must plan their presentations to conform to the stipulated time allocation.

¹Although the date the parties have selected falls on a Sunday, the Court will leave it as is to accommodate the parties' desire. However, all other amended dates will follow the Court's Monday-Friday calendar.

1 With respect to the calendar period for trial, based on the time allotted to the case, a calendar
2 period for trial will be set. In the event it becomes necessary to delay the start of trial because of the
3 Court's calendar, the commencement date will trail from day-to day until the other matter is concluded or
4 further order of court.

5 E. Alternative Dispute Resolution

6 The parties have agreed to participate in private mediation. A further case management is
7 scheduled on **November 21, 2005** at 10 a.m. Pursuant to Local Rules of Court, the parties shall file a
8 Joint Case Management Statement no later than ten days (10) before the conference. The joint statement
9 shall update the Court on the parties' mediation efforts.

10 None of the dates set in this order may be changed without an order of the court made after a
11 motion is duly filed and made pursuant to the local rules of this court.

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13 Dated: September 26, 2005

14 /s/ James Ware
15 JAMES WARE
16 United States District Judge
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1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

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7 **Dated: September 26, 2005**

Richard W. Wieking, Clerk

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9 **By: /s/ JW Chambers**

Ronald L. Davis
Courtroom Deputy
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